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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,960	07/30/2003	Taek-Rim Yoon	12109.81US01	8893
23552	7590	11/09/2005	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			SHAFFER, RICHARD R	
			ART UNIT	PAPER NUMBER
			3733	
DATE MAILED: 11/09/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/629,960

Applicant(s)

YOON, TAEK-RIM

Examiner

Richard R. Shaffer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>7/30/2003</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Drawings*

The drawings are objected to because of solid black shading, unclear details of artery branch, and **Figures 2, 3, 5, and 6** not corresponding to their parent **Figures 1 and 4** respectively. The head of the femur was rotated in **Figures 1 and 4**, however the uneven edges of the femoral head are not demonstrated in the subsequent figures. The only notice one has of the head being rotated is a solid black circle being moved.

The drawings are further objected with regard to the attached Draftsperson's Patent Drawing Review (PTO-948).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

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the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

The abstract of the disclosure is objected to because of improper grammar. For example, "including circular incision of hip joint capsule" and "through trochanteric area" both miss a "the" prior to both hip joint and trochanteric. It further is confusing and indefinite when it recites "femoral head and neck portion and internal fixation" without separating the last portion of the chain with a comma. It is assumed that a comma should be placed after "neck portion." Correction is required. See MPEP § 608.01(b).

The disclosure is objected to because it is replete with grammatical errors. The first paragraph of the disclosure merely repeated the abstract with the same errors. Other errors are present. It is recommended that applicant carefully corrects all other minor grammatical errors found throughout the application.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Sioufi (US Patent 5,409,489).

Sioufi discloses an instrument for sub-trochanteric rotational osteotomy (**Figure 2**) that does not detach the greater trochanter (~0) because it bores a cone through the

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head of the femur detaching only the ball (~1). With the screw (7), it is able to rotate the head until the damaged portion (K) is rotated out of the weight-bearing interface. The ball is fixed to the femur after the procedure by a compression plate and screw (**Figure 8a**).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure are Kenna (US Patent 4,621,630) which discloses an instrument for guiding a femoral neck osteotomy while not detaching the greater trochanter. Ball, et al (US Patent 3,486,500) and Herz (US Patent 2,737,835) disclose devices used to fix the head of the femur to the shaft. Getscher, et al (US Patent 3,824,995) disclose a trochanteric plate showing fixing an osteotomy site with a screw. Slocum (US Patent 4,759,35) discloses an osteotomy method by splitting the head of the femur long its longitudinal axis. Gil, et al (US Patent 5,665,088) is cited because of its relation to the method applicant is avoiding in the current application by not detaching and reattaching the greater trochanter.

The Atlas of Orthopaedic Surgery: Lower Extremity discloses various methods of exposing the hip joint depending partly upon the surgery required. The website Total Hip Alternative Operations clearly discloses the removal of only the ball of the femur without detaching the greater trochanter (see blown up figure). Intertrochanteric Osteotomy for Avascular Necrosis of the Head of the Femur discloses the effectiveness of intertrochanteric osteotomy for evidence of utility. Osteonecrosis of the Hip discloses

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the etiology of the condition, the varying degrees of severity, diagnosis, treatment, and surgical technique including osteotomies.

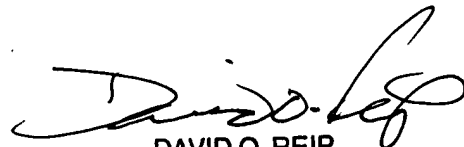
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard R. Shaffer whose telephone number is 571-272-8683. The examiner can normally be reached on 7-5 (Mon-Fri, every other Fri off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached on 571-272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Richard Shaffer  
10/27/2005



DAVID O. REIP  
PRIMARY EXAMINER

